IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

WP(C).No. 5827 of 2007(R)

PETITIONER:

S.GIRIJA, ASSISTANT GRADE-1,
KERALA STATE DEVELOPMENT CORPORATION FOR
SCHEDULED CASTES AND SCHEDULED TIBES LTD.,
ST.ANTONY'S COMPLEX, NAGAMPADAM, KOTTAYAM.

BY ADV. SRI.PIRAPPANCODE V.SREEDHARAN NAIR
SRI.PIRAPPANCODE V.S.SUDHIR

RESPONDENTS:

THE KERALA STATE DEVELOPMENT
CORPORATION FOR SCHEDULED CASTES AND SCHEDULED
TRIBES LTD., REGISTRATION OFFICE, P.B.NO.523,
TOWN HALL ROAD, THRISSUR-680 020,
REPRESENTED BY ITS MANAGING DIRECTOR.

BY SC SRI.CHANDRAMOHAN DAS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J

W.P.(C)NO. 5827 of 2007

Dated this the 21st day of February, 2007

JUDGMENT

The petitioner is working as Assistant Grade I under the respondents. Ext.P1 memo of charge was framed against her alleging that she had been making corrections and overwritings in ledger folios without initialling the same and without authentication. Her conduct is stated to be in gross violation of the usual accounting principles. It was also alleged that the corrections were made without the knowledge of the superior officers. The petitioner submitted a written statement of defence in reply to Ext.P2. Among other statements, she admitted that corrections or overwritings, were, in fact, made. But they were done bonafide and in the best interest of the Corporation. She also contended that the corrections used to be noticed by her superior officers when the registers were put up before them, but none pointed out to her the inadvertent omissions to initial

the corrections. In paragraph-4 of Ext.P2, she stated as follows:

> "I may reiterate that the corrections and overwritings were made though in good faith, I now learn that those corrections ought to have been authenticated".

2. Enquiry was ordered into the charges against the petitioner and an Enquiry Officer was appointed. Though a detailed enquiry was really not necessary, witnesses were examined and documents were marked in that enquiry. The Enquiry Officer filed his report to the disciplinary authority finding that the petitioner was negligent in the performance of her duties and she had committed dereliction of duty. The disciplinary authority accepted the report of the Enquiry Officer and decided to impose the penalty of barring three increments with cumulative effect. However, considering the representations filed by the petitioner, the penalty finally imposed by the disciplinary authority was one of barring increment for one year with cumulative effect vide Ext.P7 proceedings dated 1.9.2005. The petitioner filed an appeal before the Director Board of the

respondent. After considering the appeal, Ext.P8 order dated 24.2.2006 was passed.

3. The counsel for the petitioner contends that the corrections etc. made by the petitioner in the accounts had come to the notice of the super officers and that none of them had advised the petitioner against the practice of making such corrections or not authenticating such corrections, and therefore, the decision to take disciplinary action against the petitioner was not justified. It is also contended that Ext.P1 memo of charge was issued to the petitioner as a result of the complaint made by the petitioner against a superior officer, and, but for that, the minor lapses on the part of the petitioner would have been condoned.

4. I am unable to accept the above contention advanced on behalf of the petitioner. It is clear from Ext.P2 that the petitioner had admitted that the corrections, overwritings etc. were made by her in the accounts, and further, that none of those corrections were authenticated or initialled by her. That being the position, it cannot be said that the charge against the

petitioner is unfounded. Of course, the fact that superior officers did not intervene immediately, and the further fact that, such corrections were made not with any ill motive are extenuating circumstances. The mitigating circumstances cannot be so made use of or projected as to argue that the finding on the guilt or misconduct of the petitioner is unjustified. I find that the penalty imposed on the petitioner cannot be said to be disproportionate to the charge proved against her. There is no error apparent on the face of the record. Exts.P7 and P8 do not call for interference by this Court in the exercise of the discretionary jurisdiction under Article 226 of the Constitution of India. I notice that the petitioner was given adequate opportunity to defend her case, and in fact, there is no contention that there was any procedural violation in the disciplinary proceedings held against the petitioner. The writ petition is, therefore, dismissed.

K.K.DENESAN, JUDGE

CSS